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EXAMINER
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ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Office Action Summary	**Application No.**	**Applicant(s)**
		09/641,866	BERNASCONI ET AL.
		Examiner	**Art Unit**	
		KRISTINE K. RAPILLO	3626	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

> A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
> WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
>   after SIX (6) MONTHS from the mailing date of this communication.
> - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
> - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
>   Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
>   earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>5/21/2010</u>.

2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>89-92,98-110,113,114 and 121-146</u> is/are pending in the application.

   4a) Of the above claim(s) <u>1-88; 93-97, 111-112, 115-120</u> is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>89-92,98-110,113,114 and 121-146</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☒ The drawing(s) filed on <u>18 August 2000</u> is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a) ☐ All b) ☐ Some * c) ☐ None of:

   1. ☐ Certified copies of the priority documents have been received.

   2. ☐ Certified copies of the priority documents have been received in Application No. _____.

   3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date *See Continuation Sheet*.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :4/30/2004; 11/4/2004; 5/21/2007; 9/26/2008; 3/12/2009; 6/1/2010.

<div align="center">DETAILED ACTION</div>

<div align="center">*Notice to Applicant*</div>

1.   This communication is in response to the amendment filed May 21, 2010. Claims 1 - 88, 93 - 97,

111 – 112, and 115 – 120 were previously cancelled. Claims 88 – 91, 98 – 100, 103, 105 – 106, 113 –

114, 123, 126 – 132, and 135 – 142 are amended. Claims 143 - 146 are new. Claims 89 – 92, 98 – 110,

and 113 – 114, and 121 - 146 are presented for examination. The affidavit submitted May 21, 2010 has

been addressed in the *Response to Arguments* section below.

<div align="center">***Claim Rejections - 35 USC § 112***</div>

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 123 and 132 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as the

invention. The limitations "in response to one or more respective electronic requests by or for the one or

more preferred workers" and "The one or more computers configured for serving the one or more web

pages of the one or more preferred workers with an electronic capability to make an electronic

acceptance of the position in response to the one or more respective electronic requests by or for the one

or more preferred workers" are unclear. What is being requested by the worker is unknown based on the

limitation. Based on the claim as a whole, the computer is requesting the worker to act upon the request

to accept or decline the offered position. For the purpose of examination, the limitations above will be

treated as the computer requesting a response from the worker.

<div align="center">***Claim Rejections - 35 USC § 103***</div>

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as
> set forth in section 102 of this title, if the differences between the subject matter sought to be

patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 89 – 91, 98 – 101, 103, 105 – 106, 108, 121 – 122, and 123 - 142 are rejected under 35

U.S.C. 103(a) as being unpatentable over Clark et al., herein after Clark (U.S. Patent Number 5,164,897)

in view of Donnelly et al., herein after Donnelly (U.S. Publication Number 6,049,776), in view of Pinard et

al, herein after Pinard (U.S. Patent Number 5,940,834), further in view of McGovern et al., herein after

McGovern (U.S. Patent Number 5,978,768).

In regard to claim 123 (Currently Amended), Clark teaches a system comprising:

one or more electronic databases having information about a plurality of open positions and

qualifications for the open positions, and qualifications of a plurality of workers (column 2, lines 29 – 65;

column 5, lines 9 – 23; and, column 16, line 43 through column 17, line 12 where Clark discloses an open

job requirement file which contains job criteria - the Examiner equates job criteria to job qualifications or

requirements, employee qualifications – i.e. experience, skills, and open job positions);

one or more computers configured for filtering to determine, for each of a plurality of the

respective workers, one or more of the open positions in the one or more databases for which the

respective worker is qualified (column 5, lines 9 – 23 and column 16, line 43 through column 17, line 12

where Clark discloses a system in which a database search is conducted by comparing the skills and

qualifications of a potential employee to the job requirements/criteria; thus filtering the prospective

workers qualifications by only selecting those workers who match the requirements of the job);

the one or more computers configured for updating electronically the information in the one or

more databases to include information on the new open position (column 9, line 60 through column 10,

line 18); and

the one or more computers configured for assigning the new open position, after the expiration of

the specified time period, to one of the qualified workers for which the new open position is made

available for selection in <u>direct</u> response to receipt of an electronic selection of the new open position

from that qualified worker (column 7, lines 57 – 67). Clark fails to explicitly disclose <u>direct</u> response, but

this feature is disclosed by Donnelly, as described below.

Donnelly teaches a system comprising an <u>direct</u> response to an electronic receipt of a position

selection (column 13, lines 8 – 35) where Donnelly discloses a resource management system which

contains a database with information on employees, employee skills, schedules, and projects. The

system offers a calendar function which tracks and assigns consultants (i.e. workers) to projects and

receives real-time (i.e. <u>direct</u>) updates based on the calendar such as availability of an employee.

Pinard teaches a system comprising

the one or more computers configured for <u>serving</u> a plurality of web pages, with each different

respective web page in this plurality associated only with a different one of the respective workers and

accessible by a respective worker <u>security</u> code (Figures 4A, 6, and 8; column 6, lines 14 – 20; although

Pinard does not explicitly teach a worker security code, this feature is disclosed by Clark in column 2,

lines 66 - 68 and column 10 - lines 19 - 40);

wherein, for each respective worker web page associated only with the respective worker

(Figures 4A, 6, and 8), the <u>serving</u> comprising <u>serving information on</u> one or more of the open positions

for which the respective worker is qualified (column 4, lines 29 – 40) <u>based at least in part on the</u>

<u>qualifications of the worker listed in the one or more databases</u> (disclosed by Clark above; column 2, lines

29 – 65; column 5, lines 9 – 23; and column 16, lines 43 through column 7, line 12); and

the one or more computers configured for notifying the one or more preferred workers that the

new open position is now available for <u>acceptance</u> by at least <u>serving</u> information about the new open

position to the respective one or more worker web pages associated only with the one or more respective

preferred workers <u>in response to one or more respective electronic requests by or for the one or more</u>

<u>preferred workers (</u>column 4, lines 29 – 40 where Pinard discloses creating a list in a database of item,

where the items or fields can be, but are not limited to, an employee or workgroup). In addition, Pinard

discloses making available a "mail" selection button which allows the user the means of accepting or

rejecting a position (column 8, lines 47 – 50). Thus, it would be obvious to include a field in the web page

taught by Pinard for an open position to qualified employees as the fields disclosed by Pinard are merely

used for illustration purposes.

    The one or more computers configured for serving the one or more web pages of the one or more

preferred workers with an electronic capability to make an electronic acceptance of the position in

response to the one or more respective electronic requests by or for the one or more preferred workers

(column 8, lines 38 – 54 where a user can respond to a web page posting via a "mail" button); and

    for serving the one or more web pages of the one or more respective additional workers (column

4, lines 29 – 40) with an electronic capability to make an electronic acceptance of the position in response

to one or more respective electronic requests by or for the one or more additional workers (column 8,

lines 47 – 50).

    McGovern teaches a system comprising:

    the one or more computers configured for obtaining information about a new open position

(Figures 3 and 8; column 9, lines 18 – 26) where McGovern discloses entering job description

information;

    the one or more computers configured for obtaining information about one or more of the workers

that are preferred ("a preferred worker") for the new open position (Figure 29; Abstract; column 9, lines 41

– 55; column 17, lines 44 – 67; column 18, lines 1 - 10; and, column 18, lines 23 – 38) where McGovern

discloses a system of displaying a list of received resumes (the Examiner equates the resumes to

information about one or more workers) and display a selected resume (the Examiner equates the

selected resume to that of a preferred worker) whose qualifications and skills fit the open position;

    the one or more computers configured for automatically assigning the new open position only to

one of the one or more preferred workers during a specified time period, in direct response to receipt of

an electronic acceptance of the new open position from one of the one or more preferred workers and

removing the position as an available for acceptance open position (Figure 6; column 8, lines 14 - 26;

and, column 10, line 66 through column 11, line 18) where McGovern discloses a system of deleting or

deactivating the position from the database/web site and the position can be deactivated automatically, thus deactivated upon information entered; and,

the one or more computers configured for automatically making available for acceptance the new open position to one or more additional respective worker web pages associated only with one or more additional respective workers that are qualified, if one of the one or more preferred workers has not accepted the new open position before expiration of the specified time period (column 3, lines 20 – 33; column 9, lines 41 – 55; and column 11, lines 1 - 7 where McGovern discloses providing a time frame for which an open position is available, after the time frame has expired the position is no longer available).

Claim 123 is rejected under 35 U.S.C. 103 as being unpatentable over Clark, Donnelly, and Pinard in view of McGovern.

Clark is directed to an automated method for selecting employees which have a first set of qualifications matching job criteria, a second set of employee qualification including industry experience, and a third set of employee qualifications including specialized skills. The method disclosed by Clark matches a potential employees qualifications to particular job criteria supplied by the potential employer (Abstract).

Donnelly is directed to a resource management system which includes a database containing employee information (i.e. skills, schedules, current projects). The system searches the database to identify employees who possess the appropriate skills and knowledge for assignment to a project (Abstract).

Pinard is directed to an automatic web page creation of an organizational directory (i.e. employer) for use with the internet or intranet. An individual employee web page is created and stored/linked by the organizational directory. The employee data fields may include by are not limited to, employee name, title, and e-mail address.

McGovern is directed to a method and apparatus for providing an interactive computer driven employment recruiting service. An employer advertises available positions on the internet and receives resumes from job candidates (abstract); The system performs a resume screening process to determine

the most qualified candidates and notifies candidates of available jobs they are qualified for (column 3,

line 55 through column 4, line 44).

It would have been obvious to one of ordinary skill in the art to include in the method of Clark, in

view of Donnelly and Pinard, the ability to match employees to job qualifications via an individual web

page accessed by a potential employee as taught by McGovern since the claimed invention is merely a

combination of old elements, and in the combination, each element merely would have performed the

same function as it did separately, and one of ordinary skill in the art would have recognized that the

results of the combination were predictable.

In regard to claim 89 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the

system of claim 123. Clark teaches a system wherein the one or more computers are configured to <u>serve</u>

on each web page associated only with a respective one of the workers only open positions for which the

respective one worker is qualified and for which the position is currently available for <u>acceptance</u> (Figure

9; column 16, line 67 through column 17, line 12).

Pinard teaches posting open positions on a web page for a respective worker, associated with the

one worker (column 6, lines 14 - 34).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to include posting open positions on a web page for a respective worker as taught by

Pinard, within the system of Clark, Donnelly, and McGovern, with the motivation of creating an individual

web page for use by a employee (column 2, lines 18 - 24).

In regard to claim 90 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the

system of claim 123. Clark teaches a method wherein the one or more computers are configured to

<u>serve </u>to each respective web page associated only with a respective one of the workers only the open

positions that the respective one worker is qualified to fill (Abstract; Figure 9; column 7, lines 59 – 65).

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 89, and incorporated herein.

In regard to claim 91 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123. Clark teaches a system further comprising: the one or more computers configured to filter out for a respective one of the workers one or more open positions for which the respective one worker has been rejected (Abstract and column 4, line 55 through column 5, line 20). Clark fails to explicitly teach filtering open positions for a worker.

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

McGovern teaches a system comprising filtering open positions for a worker (Abstract; Figures 33 and 34; and, column 3, lines 55 – 60) and the one or more computers configured to serve to the respective web page associated only with the respective one worker only the open positions that the respective one worker is qualified to fill and that have not been filtered out for the respective one worker (column 18, lines 30 – 38).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 101 (Previously presented), Clark, Donnelly, Pinard, and McGovern teach the method of claim 132. Clark teaches a method further comprising allowing access to the respective web page associated only with a respective one of the workers in response to receiving at least one pass code and verifying the received at least one pass code (column 2, lines 66 – 68).

In regard to claim 103 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123. Clark teaches a system with the one or more computers configured so that each web page associated with a respective one of the workers <u>serves</u> only the open positions that the respective one worker is qualified to fill and has not been rejected by a worker whose absence creates the specific open position (Abstract and column 4, line 55 through column 5, line 20). Clark does not explicitly teach a web page, however, this deficiency is disclosed by McGovern.

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 89, and incorporated herein.

In regard to claim 105 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123.

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

McGovern teaches a system with the one or more of computers configured to <u>serve</u> information about the new open position to the one or more respective web pages associated only with the one or more respective preferred workers during the specified time period (Figures 10, 13, 11, and 14; column 7, lines 19 – 30; column 10, lines 47 – 65; and, column 16, lines 1 - 4).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 109 (Previously presented), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123.

McGovern teaches a system with the one or more of computers further configured to notify the one or more preferred workers via e-mail or e-pager (Abstract; column 3, lines 61 – 65; column 4, lines 31 – 44; and claims 8 and 27).

The motivation to combine the teachings Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 121 (Previously presented), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123.

McGovern teaches a system further comprising means for notifying electronically the one or more preferred workers about the new open position (column 4, lines 31 – 44).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 124 (Previously presented), Clark, Pinard, and McGovern teach the system of claim 123.

McGovern teaches a system wherein the one or more computers are further configured for receiving information designating one or more of the workers as the one or more preferred workers for the new open position (Figure 29; column 3, lines 55 – 60; column 9, lines 41 – 55; column 17, lines 44 - 67; and column 18, lines 1 - 38).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 125 (Previously presented), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123.

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

McGovern teaches a system further comprising the one or more computers configured for specially marking the new open position on the respective web pages associated only with the one or more respective preferred workers, so that on each respective web page associated only with one of the respective preferred workers, the new open position is differentiated from other open positions listed on that respective web page associated only with the one respective preferred worker (Figure 31 and column 17, lines 44 – 58).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 126 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123.

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

McGovern teaches a system further comprising the one or more computers configured for <u>serving</u> or otherwise electronically communicating a confirmation number to the worker in response to receiving the electronic <u>acceptance</u> of the new open position from the worker (Figures 7 and 35; column 4, lines 39 – 44) where electronic communication can be sent via the computer. The electronic message disclosed by McGovern can include a confirmation number.

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 127 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123. Clark teaches a system further comprising the one or more computers configured for filtering to prevent <u>serving</u> of one of the open positions to one of the respective worker web pages based on one or more preferences associated with the respective worker in the one or more databases

(column 5, lines 9 – 23 and column 16, line 43 through column 17, line 12). Clark does not explicitly
teach posting open positions to worker web pages, however, this deficiency is cured by Pinard.

     Pinard teaches posting open positions on a web page for a respective worker (paragraph 16).

     The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed
in the rejection of claim 92, and incorporated herein.

     In regard to claim 128 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the
system of claim 123. Clark teaches a system further comprising the one or more computers configured
for filtering to prevent <u>serving</u> of one of the open positions to one of the respective worker web pages
based on the position not being available for <u>acceptance</u> to the respective worker (column 5, lines 9 – 23
and column 16, line 43 through column 17, line 12). Clark does not explicitly teach posting open positions
to worker web pages, however, this deficiency is cured by Pinard.

     Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14
- 34).

     The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed
in the rejection of claim 92, and incorporated herein.

     In regard to claim 129 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the
system of claim 123. Clark teaches a system further comprising the one or more computers configured
for filtering to prevent <u>serving</u> of any open position to the respective web page of any respective worker
that is not qualified to fill the open position (column 5, lines 9 – 23 and column 16, line 43 through column
17, line 12). Clark does not explicitly teach posting open positions to worker web pages, however, this
deficiency is cured by Pinard.

     Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14
- 34).

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 92, and incorporated herein.

In regard to claim 130 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123.

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

McGovern teaches a system further comprising the one or more computers configured for <u>serving</u> of the new open position during the specified <u>time</u> period only to the one or more respective web pages associated with the one or more respective preferred workers (Figure 36 and column 9, lines 41 - 55) where a range of dates is posted with the position indicating the time the position is open.

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 131 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123. Clark discloses an electronic database which includes information about new open positions (column 2, liens 29 - 65; column 5, lines 9 - 23, and column 16, line 43 through column 17, line 12).

Pinard teaches posting open positions on a web page for a respective worker (column 6, lines 14 - 34).

McGovern teaches a system wherein the one or more computers are configured for automatically making available for <u>acceptance</u> the new open position to a plurality of additional respective worker web pages associated only with a plurality of additional respective workers that are qualified for the new open position, if one of the one or more preferred workers has not <u>accepted</u> the new open position before expiration of the specified time period (Figure 7 and column 17, lines 44 - 58) where a score is assigned ranking the candidates resume, thus providing the user with a listing of qualified candidates..

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

In regard to claim 141 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the system of claim 123. Clark teaches a system wherein the one or more computers are configured for assigning the new open position, after the expiration of the specified time period, to one of the workers for which the new open position is made available for <u>acceptance</u> in immediate response to receipt of an electronic selection of the new open position from that worker (column 7, lines 57 – 67). Clark fails to explicitly disclose immediate response, but this feature is disclosed by Donnelly and discussed below.

Donnelly teaches a system comprising an immediate response to receipt of an electronic <u>acceptance</u> of the new open position (column 13, lines 8 - 35) where Donnelly discloses a resource management system which contains a database with information on employees, employee skills, schedules, and projects.

McGovern teaches a system automatically assigning the new open position only to one of the one or more preferred workers during a specified time period, in immediate response to receipt of an electronic <u>acceptance</u> of the new open position from one of the one or more preferred workers (Figure 6; column 8, lines 14 – 26; and, column 10, line 66 through column 11, line 18) and removing the position as an available for <u>acceptance</u> open position (Figure 6; column 8, lines 14 – 26; and, column 10, line 66 through column 11, line 18) where McGovern discloses a system of deleting or deactivating the position from the database and/or website.

The motivation to combine the teachings of Clark, Donnelly, Pinard, and McGovern is discussed in the rejection of claim 123, and incorporated herein.

Method claims 98 - 100, 106, 108, 122, 132 – 140, and 142 repeat the subject matter of system claims 89 – 91, 103, 105, 109, 121, and 123 - 131 as a series of steps rather than a set of apparatus elements. As the underlying elements of claim 89 – 91, 103, 105, 109, 121, and 123 – 131 have been

shown to be fully disclosed by the teachings of Clark, Donnelly, Pinard, and McGovern in the above

rejections of claim 89 – 91, 103, 105, 109, 121, and 123 - 131, it is readily apparent that the system

disclosed by Clark, Donnelly, Pinard, and McGovern perform these steps. As such, these limitations (98 -

100, 106, 108, 122, 132 – 140, and 142) are rejected for the same reasons above for the system claims

89 – 91, 103, 105, 109, 121, and 123 - 131, and incorporated herein.

6.   Claims 92, 102, 104, 107, 113 – 114, and 143 - 146 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Clark et al., herein after Clark (U.S. Patent Number 5,164,897) in view of Donnelly et

al., herein after Donnelly (U.S. Publication Number 6,049,776), in view of Pinard et al, herein after Pinard

(U.S. Patent Number 5,940,834), further in view of McGovern et al., herein after McGovern (U.S. Patent

Number 5,978,768) as applied to claim 123 above, and further in view of Thompson (U.S. Patent Number

6,334,133).

         In regard to claim 92 (Previously presented), Clark, Donnelly, Pinard, and McGovern teach the

system of claim 123.

         Thompson teaches a system wherein the workers are substitute teachers (column 8, lines 14 -

63).

         Therefore, it would have been obvious to a person of ordinary skill in the art at the time the

invention was made to include a system wherein the workers are substitute teachers, as taught by

Thompson, within the system of Clark, Donnelly, Pinard, and McGovern, with the motivation of providing a

computerized tool for the placement of potential employees (column 10, liens 32 – 41).

         In regard to claim 104 (Previously presented), Clark, Donnelly, Pinard, and McGovern teach the

system of claim 123.

         Thompson teaches a system with the one or more of computers further configured to receive an

administrative designation of a worker who has accepted an open position at a location, for another open

position at the same location for a different day (column 4, lines 65 through column 5, line 4 and column

10, lines 8 - 20) where acceptance of a position, regardless of the location is documented. The summary

of position acceptance will list the locations of positions accepted (Figures 10 and 12).

      The motivation to combine the teachings Clark, Donnelly, Pinard, McGovern, and Thompson is

discussed in the rejection of claim 92, and incorporated herein.

      In regard to claim 113 (Currently Amended), Clark, Donnelly, Pinard, and McGovern teach the

system of claim 123.

      Thompson teaches a system with the one or more of computers further configured to <u>serve</u> an

assignment of the new open position automatically after receiving an electronic acceptance of the specific

open position from one of the one or more preferred workers (column 4, lines 65 through column 5, line

4).

      The motivation to combine the teachings of Clark, Donnelly, Pinard, McGovern, and Thompson is

discussed in the rejection of claim 92, and incorporated herein.

      With regard to claim 143 (New), Clark, Donnelly, Pinard, and McGovern teach the system of

claim 123.

      Thompson teaches a system wherein the one or more computers are configured to receive the

electronic acceptance from the Internet (column 4, line 65 through column 5, line 4).

      The motivation to combine the teachings of Clark, Donnelly, Pinard, McGovern, and Thompson is

discussed in the rejection of claim 92, and incorporated herein.

      With regard to claim 145 (New), Clark, Donnelly, Pinard, and McGovern teach the system of

claim 123.

Thompson teaches a system wherein the one or more computers are configured for automatically assigning the new open position in response to receipt of an electronic acceptance from one of the web pages (column 4, line 65 through column 5, line 4).

The motivation to combine the teachings of Clark, Donnelly, Pinard, McGovern, and Thompson is discussed in the rejection of claim 92, and incorporated herein.

Method claims 102, 107, 114, 144 and 146 repeat the subject matter of system claims 92, 104, 113, 143, and 145 as a series of steps rather than a set of apparatus elements. As the underlying elements of claim 92, 104, 113, 143, and 145 have been shown to be fully disclosed by the teachings of Clark , Donnelly, Pinard, McGovern, and Thompson in the above rejections of claim 92, 104, 113, 143, and 145 it is readily apparent that the system disclosed by Clark, Donnelly, Pinard, McGovern, and Thompson perform these steps. As such, these limitations (102, 107, 114, 144 and 146) are rejected for the same reasons above for the system claims 92, 104, 113, 143, and 145, and incorporated herein.

Response to Arguments

7.   Applicant's arguments filed May 21, 2010 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed May 21, 2010.

Response to remarks

The Applicant has traversed the rejections of the claims and requested reconsideration. In particular, the Applicant argues there the Examiner has failed to provide a roadmap of the rationale for the prior art references. The Examiner respectfully submits the rationale as detailed below, including a system based on a specified time period for receiving an electronic acceptance.

The Examiner respectfully submits that Clark discloses an electronic database which stores open positions, qualifications for the positions, and the qualifications of the workers (column 2, lines 29 – 65; column 5, lines 9 – 23; and column 16, line 43 through column 17, line 12). The system and method

disclosed by Clark will filter the workers qualifications to determine which position the worker is qualified

for (column 5, lines 9 – 23 and column 16, line 43 through column 17, line 12), and has the ability to

electronically update the information in the database (column 9, line 60 through column 10, line 18).

Although Clark discloses the use of a modem (column 4, lines 32 – 34) to transmit information (i.e. for the

purpose of contacting the qualified worker), Clark does not specifically disclose web pages related to a

worker.

Pinard is relied upon for the generation, maintenance, and posting of a web page (column 4, lines

29 - 40 and column 6, lines 14 - 20). Pinard discloses developing a parent web page, where individual

employee names are listed (column 4, lines 29 - 40); clicking on the name will bring you to the

employee's personal information, which implies an employee's personal web page (column 4, lines 29 –

40 and column 8, lines 47 - 50). The information on the employee page disclosed by Pinard are merely

examples, thus it is reasonable to conclude that any information pertaining to the employee may be

posted, including open positions. In addition, Pinard discloses the use of a mail button which allows the

employee to respond to an inquiry.

Pinard and Clark fail to explicitly disclose a direct response to an electronic request by the

computer to fill a temporary position, however, this feature is disclosed by Donnelly.

Donnelly was relied upon for disclosing a rapid or direct response to a scheduling inquiry (column

13, lines 8 – 35), which can be related to scheduling a temporary offer of employment. It is obvious that

the schedule of the prospective temporary employee is vital in the fulfillment of a job placement, thus the

resource management programs (which include schedules, skills, and proficiency of the worker) disclosed

by Donnelly solve this problem.

McGovern is relied upon for obtaining information about a new open position and the workers that

are qualified for that position (column 9, lines 18 – 55; column 17, lines 44 - 67; and column 18, lines 1 -

38) and matching the position to the qualified workers (column 8, lines 14 – 26 and column 10, line 66

through column 11, line 18). If the worker does not respond to the electronic request for the position

within a specified time period, the position is removed (column 3, lines 20 – 33; column 9, lines 41 – 55;

and column 11, lines 1 - 7). McGovern does not explicitly disclose posting the position to another

qualified worker, however, the invention disclosed by Clark as stated above (i.e. filtering employee

qualifications and positions) includes more than one qualified worker for the open position. Thus it would

appear to be obvious for an unaccepted or declined position to be posted to another qualified worker as

the method to perform the filtering, posting, and acceptance/denial would be the same regardless of the

worker (i.e. preferred versus second tier).

        In addition, the Applicant claims the Examiner applied hindsight reasoning of the Applicant's

claims and specification. The Examiner respectfully disagrees and respectfully submits the Clark, Pinard,

Donnelly, and McGovern references, where Clark discloses an electronic database which stores open

positions, qualifications for the positions, and the qualifications of the workers, will filter the workers

qualifications to determine which position the worker is qualified for, and has the ability to electronically

update the information in the database; Pinard is relied upon for the generation, maintenance, and

posting of a web page; Donnelly was relied upon for disclosing a rapid or direct response to a scheduling

inquiry; and, McGovern is relied upon for obtaining information about a new open position and the

workers that are qualified for that position and matching the position to the qualified workers. This

combination suggests that an electronic database containing open positions, qualifications for the

positions, and qualifications of the workers, are filtered to determine which positions the worker is

qualified for. The filtered positions are posted to a qualified worker on a web page, where the worker has

a specified time period to either accept or reject the position. If the position is rejected, or the worker

does not respond, the open position is posted to a different worker. Furthermore, regarding the

applicant's argument concerning hindsight, it must be recognized that any judgment on obviousness is in

a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account

only knowledge which was within the level of ordinary skill at the time the claimed invention was made,

and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is

proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In addition, the key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR* noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Court quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), stated that "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.'" *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396. An example of rationale that may support a conclusion of obviousness include: (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention See MPEP § 2143. Furthermore, if the search of the prior art and the resolution of the *Graham* factual inquiries reveal that an obviousness rejection may be made using the familiar teaching-suggestion-motivation (TSM) rationale, then such a rejection should be made. Although the Supreme Court in *KSR* cautioned against an overly rigid application of TSM, it also recognized that <u>TSM was one of a number of valid rationales that could be used to determine obviousness.</u> (According to the Supreme Court, establishment of the TSM approach to the question of obviousness "captured a helpful insight." 550 U.S. at ___, 82 USPQ2d at 1396 (citing *In re Bergel*, 292 F.2d 955, 956-57, 130 USPQ 206, 207-208 (1961)).

Response to the Clark Reference

The Applicant claims Clark is a direct teach away to the claimed computer system logic and the citation in Clark directly teaches away from an automatic assignment using a tiered timing. The Examiner respectfully disagrees. As per the MPEP (2141.02 [R-5] VI), a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) (Claims were directed to a process of producing a porous article by expanding shaped, unsintered, highly crystalline poly(tetrafluoroethylene) (PTFE) by stretching said PTFE at a 10%

per second rate to more than five times the original length. The prior art teachings with regard to

unsintered PTFE indicated the material does not respond to conventional plastics processing, and the

material should be stretched slowly. A reference teaching rapid stretching of conventional plastic

polypropylene with reduced crystallinity combined with a reference teaching stretching unsintered PTFE

would not suggest rapid stretching of highly crystalline PTFE, in light of the disclosures in the art that

teach away from the invention, i.e., that the conventional polypropylene should have reduced crystallinity

before stretching, and that PTFE should be stretched slowly.). However, "the prior art's mere disclosure

of more than one alternative does not constitute a teaching away from any of these alternatives because

such disclosure does not criticize, discredit, or otherwise discourage the solution claimed…." In re Fulton,

391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). >See also MEEP §2123.

       Thus, Clark teaches an automated method for selecting employees which have a first set of

qualifications matching job criteria, a second set of employee qualification including industry experience,

and a third set of employee qualifications including specialized skills. The method disclosed by Clark

matches a potential employees qualifications to particular job criteria supplied by the potential employer

(Abstract).

<p style="text-align:center">Response to the Donnelly Reference</p>

       The Applicant argues Donnelly is a direct teach away from the claimed invention. The Examiner

respectfully disagrees. As per the MPEP (2141.02 [R-5] VI), a prior art reference must be considered in

its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L.

Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied,

469 U.S. 851 (1984) (Claims were directed to a process of producing a porous article by expanding

shaped, unsintered, highly crystalline poly(tetrafluoroethylene) (PTFE) by stretching said PTFE at a 10%

per second rate to more than five times the original length. The prior art teachings with regard to

unsintered PTFE indicated the material does not respond to conventional plastics processing, and the

material should be stretched slowly. A reference teaching rapid stretching of conventional plastic

polypropylene with reduced crystallinity combined with a reference teaching stretching unsintered PTFE would not suggest rapid stretching of highly crystalline PTFE, in light of the disclosures in the art that teach away from the invention, i.e., that the conventional polypropylene should have reduced crystallinity before stretching, and that PTFE should be stretched slowly.). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed…." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). >See also MPEP §2123.

Thus, the Donnelly reference teaches a resource management system which includes a database containing employee information (i.e. skills, schedules, current projects). The system searches the database to identify employees who possess the appropriate skills and knowledge for assignment to a project (Abstract).

Response to the Pinard Reference

The Applicant argues Pinard fails to disclose a "web page with open positions for which the person is qualified, and an electronic capability on the respective one or more web pages of the preferred workers to transmit/send an electronic acceptance of the position, or after a specified time, making the position available to another tier of workers to transmit/send an electronic acceptance of the position, much less a system where receipt of an electronic acceptance from a worker for which the position is available automatically assigns the position to the accepting worker, directly and without further decision-making processing. Likewise, Pinard discloses nothing about timed availability, by computer, of open positions to at least two tiers of worker web pages (e.g., the preferred workers, and the second tier of additional workers and the preferred workers)". The Examiner respectfully disagrees and submits that this argument has been addressed above in the *Response to Remarks* section of the Office Action.

Response to the McGovern Reference

The Applicant argues the McGovern reference teaches away from the claimed invention. The Examiner respectfully disagrees. As per the MPEP (2141.02 [R-5] VI), a prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) (Claims were directed to a process of producing a porous article by expanding shaped, unsintered, highly crystalline poly(tetrafluoroethylene) (PTFE) by stretching said PTFE at a 10% per second rate to more than five times the original length. The prior art teachings with regard to unsintered PTFE indicated the material does not respond to conventional plastics processing, and the material should be stretched slowly. A reference teaching rapid stretching of conventional plastic polypropylene with reduced crystallinity combined with a reference teaching stretching unsintered PTFE would not suggest rapid stretching of highly crystalline PTFE, in light of the disclosures in the art that teach away from the invention, i.e., that the conventional polypropylene should have reduced crystallinity before stretching, and that PTFE should be stretched slowly.). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed…." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004). >See also MPEP §2123.

Thus, the McGovern reference teaches a method and apparatus for providing an interactive computer driven employment recruiting service. An employer advertises available positions on the internet and receives resumes from job candidates (abstract); The system performs a resume screening process to determine the most qualified candidates and notifies candidates of available jobs they are qualified for (column 3, line 55 through column 4, line 44).

Response to the Dougherty Affidavit (Declaration of Skilled Person in the Art)

The Examiner has acknowledged and reviewed the affidavit submitted May 21, 2010 by Edmond J. Dougherty (skilled person in the art). The opinions disclosed by Mr. Dougherty rehash the arguments presented by the Applicant in the remarks submitted May 21, 2010. The Examiner submits that the

argument/opinion of Mr. Dougherty has been addressed above in the *Response to Remarks* section of this Office Action.

<div align="center">***Conclusion***</div>

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTINE K. RAPILLO whose telephone number is (571)270-3325. The examiner can normally be reached on Monday to Thursday 6:30 am to 3:30 pm Eastern Time.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Morgan can be reached on 571-272-6773. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative

or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-

1000.

/K. K. R./
Examiner, Art Unit 3626

/Robert Morgan/
Supervisory Patent Examiner, Art Unit 3626